



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG-2021-0191]

Waterways Commerce Cutter Acquisition Program; Preparation of a Programmatic Environmental Impact Statement

AGENCY: Coast Guard, DHS.

ACTION: Notice of Availability of a Draft Programmatic Environmental Impact Statement; request for comments.

SUMMARY: The United States Coast Guard (Coast Guard), as the lead agency, announces the availability of the Draft Programmatic Environmental Impact Statement (PEIS) for the Waterways Commerce Cutter (WCC) Program's acquisition and operation of a planned 30 WCCs. This PEIS is being prepared in compliance with the National Environmental Policy Act (NEPA; and the regulations implemented by the Council on Environmental Quality (CEQ). The Coast Guard has determined that a PEIS is the most appropriate type of NEPA document for this action because of the scope and complexity of the proposed acquisition and operation of a planned 30 WCCs. This notice of availability (NOA) announces the start of the public review and comment period on this PEIS. After the Coast Guard addresses comments provided, Coast Guard will publish a final PEIS.

DATES: Comments and related material must be post-marked or received by the Coast Guard on or before November 8, 2021.

ADDRESSES:

Obtaining Documents: You may access the Draft PEIS from the Coast Guard Office of Environmental Management web page at <https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Engineering-Logistics-CG-4-/Program-Offices/Environmental-Management/Environmental-Planning-and-Historic-Preservation/>.

Submitting Comments: You may submit comments on the Draft PEIS by one of the following methods:

- *Via the Web:* You may submit comments identified by docket number USCG-2021-0191 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Scoping Process” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.
- *Via U.S. Mail:* U.S. Coast Guard Headquarters, ATTN: LCDR S. Krolman (CG-9327), 2703 Martin Luther King Jr Ave SE, Stop 7800, Washington DC 20593. Please note that mailed comments must be postmarked on or before the comment deadline of 45 days following publication of this notice to be considered.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: For information about this document, e-mail HQS-SMB-CG-WaterwaysCommerceCutter@uscg.mil.

SUPPLEMENTARY INFORMATION: This NOA briefly summarizes the proposed project, including the purpose and need and reasonable alternatives. As required by

NEPA and CEQ implementing regulations (40 CFR 1500–1508, specifically § 1502.3), a Federal agency must prepare an Environmental Impact Statement (EIS) if it is proposing a major Federal action to analyze the environmental consequences of implementing each of the alternatives, if carried forward for full review following public scoping, by assessing the effects of each alternative on the natural and human environment. The Coast Guard has determined that a PEIS is the most appropriate type of EIS for this action because of the scope and complexity of the proposed acquisition and operation of a planned 30 WCCs.

Purpose and Need for the Proposed Action

The Coast Guard has a statutory mission to establish, maintain, and operate aids to navigation (ATON) in the Inland Waterways and Western Rivers (IW&WR). The IW&WR includes the Gulf and Atlantic Intracoastal Waterway (ICW); the Mississippi, Missouri, Alabama, Tennessee, Columbia, and Ohio Rivers, their associated tributaries and other connecting waterways; portions of the Alaska Inside Passage; portions of the Great Lakes; and several other navigable waterways around the United States. The 35 cutters and associated 27 barges that comprise the existing inland tender fleet servicing the IW&WR are, on average, more than 54 years old and all have significantly exceeded their design service life of 30 years. There is no redundant vessel capability within the Coast Guard, Department of Homeland Security (DHS), or other government agencies. Without replacement of the existing inland tender fleet, the Coast Guard could face an increasing risk of failure to maintain the capability to execute its ATON mission and provide timely ATON services in the IW&WR and other navigable waters around the United States.

Due to obsolescence, hull limitations, and asset age, service life extension and modernization efforts are increasingly difficult, expensive to maintain, and cannot be

justified. To maintain the Coast Guard's vital inland waterways mission and continue to provide a consistent and reliable presence in the IW&WR, the Coast Guard is proposing to replace the existing aging inland tender fleet. WCCs would be designed to replace the capabilities of the existing inland tender fleet; therefore, the purpose of the Proposed Action is the acquisition and operation of up to 30 WCCs to replace the capabilities of the existing inland tender fleet, thereby enabling the safe navigation of waters that support the nation's economy through maritime commerce throughout the Marine Transportation System.

Proposed Action and Alternatives

Coast Guard has identified and analyzed three action alternatives and the No Action Alternative in this PEIS for public review and comment.

Proposed Action (Alternative 1, Preferred Alternative): Under the Proposed Action, the Coast Guard would acquire and operate a planned 30 WCCs with design lives of 30 years to fulfill Aids to Navigation (ATON) mission requirements in the proposed action areas in IW&WR, portions of the Alaska Inside Passage; portions of the Great Lakes, and several other navigable waterways around the United States.

Similar to the existing inland tender fleet's operations, Alternative 1 would include vessel operations to establish, operate, and maintain the lighted and unlighted buoys and beacons to maintain the United States Visual ATON System. This mission contributes to protecting national interests by ensuring safe and efficient flow of commercial vessel traffic through our nation's waters. Although it is expected that the WCCs, similar to the existing inland tender fleet, would be capable of performing non-ATON missions such as Ports, Waterways and Coastal Security; Search and Rescue; Marine Environmental Protection; and Marine Safety, their primary focus would be on the ATON mission.

Full operational capability would be achieved when all planned WCCs have been produced and are operational. Coast Guard WCC operations and training would occur after delivery of each WCC from the shipbuilder to the Coast Guard. For example, the first WCC delivery to the Coast Guard is expected in 2024 and the cutter would then be operational in 2025. The last WCC is expected to be delivered and operational in 2032.

The Proposed Action would include WCC operation, maintenance, and commissioning of up to 11 WCC construction class (WLIC) tenders to replace the existing capabilities of 13 inland construction tenders; up to 16 River Buoy class (WLR) tenders to replace the capabilities of the river buoy tenders; and up to three Inland Buoy class (WLI) tenders to replace the capabilities of the inland buoy tenders. Although there are three classes proposed and design specifications are not final, the design would maximize commonality between the three classes to reduce sustainment costs, training needs, and other associated requirements.

The WLIC would be specifically designed for establishing and replacing fixed ATON and would be equipped with impact and vibratory pile driving and extraction equipment and spuds. The WLR and WLI would have capability to deploy and retrieve buoy mooring equipment from the seabed or riverbed using a water jet system that would also be equipped to move buoys, and move and recover sinkers, chain, wire rope, synthetic rope, and other materials without a crane.

All WCCs would have the ability to tow one vessel (of equivalent displacement) in either a side tow or stern tow. Each WCC would also have the capability to be towed by the bow, pushed ahead from the stern, and towed alongside from either port or starboard. Vessels would be towed according to specifications in the Cutter Towing Operations Tactics, Techniques, and Procedures (CGTTP 3-91.15 issued March 2017). All WCCs would also recover stray, stranded, and scrap buoys.

Vessel performance testing for a WCC would be similar to testing conducted for the existing inland tender fleet. Scheduled maintenance would likely occur within close proximity to each WCC's homeport; however, the exact locations of all the homeports for all WCCs are not known at this time.

Alternative 2, Reduced Acquisition of Coast Guard Owned and Operated Systems: The Coast Guard would explore hybrid government and contracted options for mission performance. Ship platforms would meet similar technical specifications discussed in Alternative 1. Potential scenarios could include: contractor-owned (commercial entity funds ship construction, overhaul and maintenance) and government-operated (Coast Guard provides the personnel); government-owned (government funds ship construction, overhaul and maintenance) and contractor-operated (a commercial operating company provides the crew); or contractor-owned and contractor-operated systems (Coast Guard provides neither platforms nor personnel). Operations and training using WCCs acquired under Alternative 2 are the same as for Alternative 1.

Alternative 3, Mixed Fleet: The mixed fleet solution would be a combination of cutters and shore-based assets (including ATON team units), electronic ATON, and contracted ATON services. To accomplish a mixed fleet solution, additional Coast Guard ATON personnel and teams would be required. To accommodate the additional ATON teams, existing facilities would require expansion and construction of new shore based facilities could be necessary. Use of electronic ATON instead of physical ATON could also prove necessary. Operations and training using WCCs acquired under Alternative 2 are the same as for Alternative 1.

No Action Alternative: The evaluation of a No Action Alternative is required by the regulations implementing NEPA. Under the No Action Alternative, the Coast Guard would fulfill its statutory missions in the IW&WR using the existing inland tender fleet.

The existing assets would continue to age, causing a decrease in efficiency of machinery as well as an increased risk of equipment failure or damage, and would not be considered reliable for immediate emergency response. In addition, it would become more difficult for an ageing fleet to remain in compliance with environmental laws and regulations and standards for safe operation. Further Service Life Extensions become more challenging as significant systems and parts are no longer available, which requires contracting for systems or parts to be made specifically for the vessel.

Summary of Expected Impacts

While the Coast Guard must work toward environmental compliance during the design and acquisition of WCCs, each vessel is not expected to impact the environment (biological, physical, or socioeconomic resources) until it is operational and no significant impacts are expected after vessels are operational. In addition, vessel construction in commercial shipyards is not expected to impact any physical or biological resources.

Although the total number of WCCs may be subject to change and all three action alternatives being considered would all reduce the size of the overall fleet, Congressional Authorization is for no more than 30. As such, the PEIS analyzes the potential impact of the range of a planned 30 WCCs, as this would be the highest number projected to be operational in the Coast Guard's proposed action areas. Acoustic and physical stressors associated with the Proposed Action may potentially impact the physical and biological environment in the proposed action areas. Potential acoustic stressors include: the fathometer and Doppler speed log (navigation system), vessel noise, ATON signal noise, tool noise, and pile driving noise. Potential physical stressors include: vessel movement, bottom disturbance, ground disturbance (removal of brush), pile driving, unrecovered jet cone moorings, and ATON retrieval devices and tow lines.

Since the WCC fleet would service a broad geographic area, stressors associated with the Proposed Action are assessed to determine if they potentially impact physical resources (including air quality, ambient sound, bottom habitat and sediments, and water quality), biological resources (including critical habitat), and socioeconomic resources.

The PEIS evaluates the likelihood that a resource would be exposed to or encounter a stressor and identifies the impact associated with that exposure or encounter. The likelihood of an exposure or encounter is based on the stressor, location, and timing relative to the spatial and temporal distribution each biological resource or critical habitat. No significant impacts to environmental resources were identified.

Anticipated Permits and Authorizations

The Proposed Action is programmatic and each WCC would have a design service life of 30 years. As such, potential permits and authorizations are identified in the PEIS. Certain approvals may be completed as part of the PEIS, but specific permits and authorizations under the laws listed below would be determined through consultations with the appropriate regulatory agencies, and would not necessarily be issued until a WCC is operational in a specific geographic area. Implementation of all alternatives would ultimately require compliance with the following laws and regulations through issuance of permits and/or authorizations:

The Coastal Zone Management Act (16 U.S.C 1451 *et seq.*) was enacted to protect the coastal environment from demands associated with residential, recreational, and commercial uses. The Coast Guard would determine the impact of the Proposed Action and provide a Coastal Consistency Determination or Negative Determination to the appropriate state agency for anticipated concurrence once the homeports are selected for the WCCs.

The Endangered Species Act (ESA) of 1973 (16 U.S.C 1531 *et seq.*) provides for the conservation of endangered and threatened species and the ecosystems on which they depend. The Coast Guard completed an ESA Section 7 and Essential Fish Habitat consultation with NMFS on the U.S. Coast Guard Federal Aids to Navigation Program, finalized on April 19, 2018. Any information provided in the PEIS includes WCC support of ATONs, only as it pertains to the Proposed Action and any determination provided in the PEIS is consistent with the findings in the National Marine Fisheries Service (NMFS) Biological Opinion. Any determinations provided in this PEIS for species not included in the NMFS Biological Opinion or for those species that are under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS), should be considered preliminary. The Coast Guard anticipates consulting under Section 7 of the ESA with the appropriate NMFS and the USFWS offices that have jurisdiction over the species (50 CFR 402.14(a)).

The Marine Mammal Protection Act (MMPA; 16 U.S.C 1361 *et seq.*) established, with limited exceptions, a moratorium on the “taking” of marine mammals in waters or on lands under U.S. jurisdiction, and on the High Seas by vessels or persons under U.S. jurisdiction. The MMPA further regulates “takes” of marine mammals in U.S. waters and by U.S. citizens on the High Seas. The term “take,” as defined in Section 3 (16 U.S.C. 1362) of the MMPA, means “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal”. "Harassment" was further defined in the 1994 amendments to the MMPA as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (that is, Level A Harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (that is, Level B

Harassment). Where appropriate, the Coast Guard anticipates requesting a Letter of Authorization to “take” marine mammals, defined as Level B harassment.

The National Historic Preservation Act (NHPA; 16 U.S.C. 470, et seq.), Section 106, requires that each federal agency identify and assess the effects its actions may have on historic properties, including potential effects on historic structures, archaeological resources, and tribal resources eligible for or listed on the National Register of Historic Places. The Coast Guard would determine if any historic resources are present in the project area, evaluate the potential for the proposed action to adversely affect these resources, and consult with the appropriate state agency and any interested or affected Tribes to resolve any adverse effects by developing and evaluating alternatives or measures that could avoid, minimize, or mitigate impacts.

The Clean Air Act (42 U.S.C. 7401, et seq.) regulates emissions from both stationary (industrial) sources and mobile sources. The Coast Guard would evaluate the potential for increased emissions during proposed action activities to determine if the emissions would be in conformity with the State Implementation Plan for attainment of National Ambient Air Quality Standards.

Schedule for the Decision-Making Process

Following the comment period announced in this Notice of Availability, and after consideration of all comments received, Coast Guard would prepare a Final PEIS for the acquisition and operation of a planned 30 WCCs. In meeting CEQ regulations requiring EISs to be completed within 2 years the Coast Guard anticipates the Final PEIS would be available in 2022. Availability of the Final PEIS would be published in the Federal Register and would be available for a 30-day waiting period. Because new information may become available after the completion of the Draft or Final PEIS, supplemental

NEPA documentation may be prepared in support of new information or changes in the Proposed Action considered under the PEIS.

Public Scoping Process

The Coast Guard is seeking comments on the potential environmental impacts that may result from the Proposed Action or preliminary Alternatives. The Coast Guard is also seeking input on relevant information, studies, or analyses of any kind concerning impacts potentially affecting the quality of the human environment as a result of the Proposed Action. NEPA requires federal agencies to consider environmental impacts that may result from a Proposed Action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. The PEIS includes, among other topics, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impact of the Proposed Action and alternatives.

The Coast Guard intends to follow the CEQ regulations implementing the NEPA (40 CFR 1500-1508) by scoping through public comments. Scoping, which is integral to the process for implementing NEPA, provides a process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft PEIS is thorough and balanced; and (4) delays caused by an inadequate PEIS are avoided.

Public scoping is a process for determining the scope of issues to be addressed in this PEIS and for identifying the issues related to the Proposed Action that may have a significant effect on the environment. The scoping process began with publication of the Notice of Intent to prepare the PEIS, published April 19, 2021 (86 FR 20376). The Coast Guard received two comments during the 45-day public scoping period that began April 27, 2021 and ended June 11, 2021. In this Notice of Availability, the Coast Guard is

providing the public with the opportunity to comment on the Draft PEIS. After Coast Guard considers those comments, the Final PEIS will be prepared and its availability similarly announced to solicit public review and comment. Comments received during the Draft PEIS review period will be available in the public docket and made available in the Final PEIS.

Pursuant to the CEQ regulations, Coast Guard invites public participation in the NEPA process. This notice requests public comments, establishes a public comment period, and provides information on how to participate.

The 45-day public comment period begins September 24, 2021 and ends November 8, 2021. Comments and related material submitted to the online docket via <https://www.regulations.gov/> must be received by the Coast Guard on or before November 11, 2021, and mailed submission, must be postmarked on or before that same date.

The Coast Guard encourages comments submitted through the Federal Decision-Making portal at https://www.regulations.gov, using the search function for Waterways Commerce Cutter or by docket number. If your material cannot be submitted using https://www.regulations.gov, contact U.S. Coast Guard Headquarters, ATTN: LCDR S. Krolman (CG-9327), 2703 Martin Luther King Jr Ave SE Stop 7800 Washington DC 20593-7800 or Coast Guard at HQS-SMB-CG-WaterwaysCommerceCutter@uscg.mil. A phone message may be left at 202-475-3104.

In submissions, please include the docket number for this Notice of Availability and provide reasoning for comments. We will consider all substantive and relevant comments received during the comment period. We review all comments received, but we will only post comments that address the topic of the notice. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

We accept anonymous comments. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this Proposed Action. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this Notice of Availability as being available in the docket, and posted public comments, will be in the online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions.

Dated: September 17, 2021.

Ms. Aileen Sedmak,

Waterways Commerce Cutter Program Manager.

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